



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

[Document Number AMS-FV-13-0027]

Potato Research and Promotion Plan; Amend the Administrative Committee Structure and Delete the Board's Mailing Address

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on amending the structure of the Administrative Committee (Committee) of the U.S. Potato Board (Board) and deleting the Board's mailing address from the Potato Research and Promotion Plan. The Plan is administered by the Board with oversight by the U.S. Department of Agriculture (USDA). Under the Plan, there are seven Committee Vice-Chairperson positions. The Board has recommended that these positions be increased to nine. This proposed change is intended to facilitate increased involvement in the Board's leadership opportunities. Further, the Board's office is being relocated and the address must be changed in the Plan. The deletion of the Board's mailing address from the Plan would require no further amendment to the Plan if the Board's office is relocated again.

DATES: Comments must be received by [INSERT DATE 15 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments may be submitted on

the Internet at: <http://www.regulations.gov> or to the Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue, SW., Room 1406-S, Stop 0244, Washington, DC 20250-0244; facsimile: (202) 205-2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including name and address, if provided, in the above office during regular business hours or it can be viewed at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue, SW., Room 1406-S, Stop 0244, Washington, DC 20250-0244; telephone: (301) 337-5295; toll free (888) 720-9917; facsimile (202) 205-2800; or electronic mail: Patricia.Petrella@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Potato Research and Promotion Plan (Plan) (7 CFR part 1207). The Plan is authorized under the Potato Research and Promotion Act (Act) (7 U.S.C. 2611-2627).

Executive Order 12866 and Executive Order 13563

Executive Order 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety effects, distributive impacts, and equity). Executive order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as "non-significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 311 of the Act (7 U.S.C. 2620), a person subject to a plan may file a petition with USDA stating that such plan, any provision of such plan, or any obligation imposed in connection with such plan, is not in accordance with law and request a modification of such plan or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the

petition, provided that a complaint is filed not later than 20 days after date of the entry of the ruling.

Background

This proposed rule invites comments on amending the structure of the Committee of the Board and to delete the Board's mailing address from the Plan. The Plan is administered by the Board with oversight by USDA. Under the Plan, assessments are collected from handlers and importers and used for projects to promote potatoes and potato products.

This proposed rule modifies the structure of the Board's Administrative Committee as prescribed in the Plan by increasing the number of Vice-Chairperson positions on the Committee from seven to nine. These additional positions would be allocated, as provided in the Board's bylaws, to the Northwest and North Central caucuses. The Northwest district includes Alaska, Idaho, Montana, Oregon and Washington. The North Central district includes Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin. With this action, Board representation at the executive level for potato producers in the Northwest district increases from 28.5 percent to 33 percent and in the North Central district from 14 percent to 22 percent.

Section 1207.327(b) of the Plan provides the authority to the Board to make rules and regulations, with USDA approval, to effectuate the terms and conditions of the Plan. Section

1207.328(a) of the Plan provides the authority to the Board to select from its members such officers as may be necessary and to adopt such rules for the conduct of its business as the Board may deem advisable.

Section 1207.507(a) of the Plan's administrative rules delineates the structure of the Board's Administrative Committee. The Committee is selected from among Board members, and is composed mostly of producer members, with one or more importer member(s), and the public member. The Board, through the adoption of its bylaws, may prescribe the manner of selection and the number of members; except that the regulations mandate that the Committee shall include a Chairperson and a fixed number of Vice-Chairpersons. The proposed change is intended to facilitate increased involvement in the Board's leadership opportunities from the Northwest and North Central caucuses and possibly increase diversity at higher positions on the Board.

Prior to this change, the Plan provided for seven Vice-Chairperson positions on the Committee. Vice-Chairperson positions are allocated in the Board's bylaws to represent production districts as determined by the Board. This action increases the number of Vice-Chairperson positions to nine. The additional Vice-Chairpersons would be allocated to the Northwest and North Central caucuses, which historically have been the caucuses with the greatest production.

The second proposed change would delete the Board's mailing

address from the Plan's rules and regulations. Section 1207.501 of the Plan specifies that all communications in connection with the Plan shall be addressed to: National Potato Promotion Board, 7555 East Hampden Avenue, Suite 412, Denver, Colorado, 80231. The Board is in the process of moving to a new location within Denver, Colorado. Therefore, this section would need to be amended. However, USDA is recommending that this section be deleted so no further amendment would be required if the Board moves its office in the future. Interested persons wanting to contact the Board can reach them through their website, Facebook, or smartphone application.

Board Recommendation

The Board met on March 14, 2013, and unanimously recommended amending the Committee structure of the Board and amending the Board's mailing address from the Plan. This action would contribute to effective administration of the program.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS is required to examine the impact of the proposed rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

According to the Board, it is estimated that in 2013 there are about 2,500 producers, 1,030 handlers and 240 importers of

potatoes and potato products who are subject to the provisions of the Plan.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (domestic handlers and importers) as those having annual receipts of no more than \$7.0 million. Under these definitions, the majority of the handlers, producers and importers that would be affected by this rule would be considered small entities.

This proposed rule invites comments on amending the structure of the Administrative Committee of the Board and deleting the Board's mailing address from the Plan. The Plan is administered by the Board with oversight by the U.S. Department of Agriculture (USDA). Under the Plan, there are seven Committee Vice-Chairperson positions. The Board has recommended that these positions be increased to nine Vice-Chairpersons. This proposed change is intended to facilitate increased involvement in the Board's leadership opportunities. The deletion of the Board's mailing address would require no further amendment to the Plan if the Board's office is relocated. The Board's office is being relocated so an amendment change was necessary to the Plan.

This proposed rule would amend section 1207.507(a) of the Plan by changing the number of Vice-Chairperson positions from seven to nine. Also, the Board's office address would be removed from 1207.501 of the Plan.

Regarding the economic impact of this proposed rule on affected entities, this action would impose no costs on producers, handlers, and importers as a result of this action. Both changes are administrative in nature; it would merely provide additional opportunities for increased involvement by producers in the Board's leadership opportunities from the larger production areas.

Regarding alternatives, one option to the proposed action would be to maintain the status quo and not change the Administrative Committee structure. This would not alleviate the concerns voiced by the Northwest and North Central caucuses for more representation and leadership opportunities. The Board also considered combining the Southwest caucus into the Northwest caucus. The Board concluded that this would cause the Southwest producers to lose their representation as there are more Northwest producers and the available seats could possibly be absorbed by all Northwest producers. Therefore, the proposed recommendation was approved, as it would allow greater opportunity for producers from the Board's two largest caucus districts to become engaged in the Board's leadership structure.

This action would also make the representation on the Board more equitable according to production.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581-0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting and recordkeeping burden on potato producers, handlers and importers.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Regarding outreach efforts, this action was discussed by the Board at meetings over the past year. Board members discussed the changes with their respective regions. The Board met in March 2013 and unanimously made its recommendation. All of the Board's meetings, including meetings held via teleconference, are

open to the public and interested persons are invited to participate and express their views.

We have performed this initial RFA regarding the impact of this proposed action on small entities and we invite comments concerning potential effects of this action on small businesses.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible so the additional Vice-Chairperson can participate in Committee meetings. In addition, the Board's office has already relocated so the address needs to be deleted promptly. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 1207

Advertising, Agricultural research, Imports, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1207 is proposed to be amended as follows:

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR part 1207 continues to read as follows:

Authority: 7 U.S.C. 2611-2627 and 7 U.S.C. 7401.

§ 1207.501 [Removed and Reserved]

2. Section 1207.501 is removed and reserved.

3. Section 1207.507(a) is revised to read as follows:

§ 1207.507 Administrative Committee.

(a) The Board shall annually select from among its members an Administrative Committee composed of producer members as provided for in the Board's bylaws, one or more importer members, and the public member. Selection shall be made in such manner as the Board may prescribe: Except that such committee shall include the Chairperson and nine Vice-Chairpersons, one of whom shall also serve as the Secretary and Treasurer of the Board.

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Dated: June 24, 2013

Rex A. Barnes
Associate Administrator

Billing Code: 3410-02 P

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